

BRISTOL BAY WATERSHED CWA 404(c) PROCESS

ISSUE/TOPIC: Bristol Bay CWA 404(c) litigation process with Pebble Limited Partnership

BACKGROUND:

- On July 21, 2014, the agency announced its proposal to protect the Bristol Bay watershed. This proposal outlines restrictions that would limit the extent of salmon-supporting streams and wetlands that could be destroyed or degraded from the discharge of dredged or fill material related to the construction and operation of a mine at the Pebble deposit, a copper and gold deposit in southwest Alaska.
- The Pebble Limited Partnership sued the EPA on several aspects of its initial proceedings. The current preliminary injunction concerns the assertion that there were unauthorized federal advisory committees providing advice to the Agency in violation of the Federal Advisory Committee Act, an assertion we vigorously contest.
- A Federal District Court judge in November 2014 ordered the EPA to stop all work connected to the Clean Water Act 404(c) proposed limitation while a challenge to the EPA's actions with regard to the Bristol Bay watershed is litigated.
- The EPA and Department of Justice are actively engaged in settlement discussions with Pebble Limited Partnership.
- On January 13, 2016, the EPA OIG released its final report from a 17-month in-depth evaluation of EPA's Bristol Bay Watershed Assessment finding:
 - No evidence of bias in how the EPA conducted the Bristol Bay Watershed Assessment.
 - No evidence that the EPA pre-determined the outcome of the assessment to initiate a Clean Water Act Section 404(c) process in the Bristol Bay watershed.
 - All policies and procedures for ecological risk assessment, peer review and information quality in conducting the Bristol Bay Watershed Assessment were appropriately followed.
 - In spite of a potential ethics lapse by a remotely located staffer who retired before the EPA completed the Bristol Bay Watershed Assessment, there is "no evidence that any law was violated."
- The EPA is continuing to process its response to a broad FOIA request filed on behalf of Pebble Limited Partnership requesting documents relating to the Pebble Project, the Bristol Bay Watershed Assessment, and any proposed or actual Clean Water Act Section 404(c) action in the Bristol Bay Watershed.
- Senator Murkowski (R-AK) has written EPA in concern over their watershed assessment, and opposes what she sees as EPA's overreach in this case.

TALKING POINTS:

- The EPA is complying with a court order to stop all work on our review of the Bristol Bay watershed.